

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

IN RE: PHARMACEUTICAL INDUSTRY
AVERAGE WHOLESAL PRICE
LITIGATION

MDL No. 1456
Master File No. 1:01-CV-12257-PBS
Sub Docket No. 1:10-CV-11186-PBS

THIS DOCUMENT RELATES TO:
*United States ex rel. Ven-A-Care of the Florida
 Keys*
 v.
*Baxter Healthcare Corporation and Baxter
 International Inc.*

Judge Patti B. Saris

THE PARTIES' JOINT MOTION FOR ENTRY OF A SCHEDULING ORDER

Counsel for Defendants Baxter Healthcare Corporation and Baxter International Inc. and Counsel for Relator Ven-A-Care of the Florida Keys have conferred and have jointly agreed upon a proposed schedule for this case as set forth in the attached document. The parties hereby request that the Court accept and adopt the proposed schedule.

Respectfully submitted,

Dated: January 3, 2011

/s/ Ruchi Jain

Merle M. DeLancey

Tina D. Reynolds

Ruchi Jain

Admitted pro hac

DICKSTEIN SHAPIRO LLP

1825 Eye Street NW

Washington, DC 20006

Telephone: (202) 420-2200

Facsimile: (202) 420-2201

/s/ Peter E. Gelhaar

Peter E. Gelhaar (BBO #188310)

DONNELLY, CONROY & GELHAAR, LLP

One Beacon Street, 33rd Floor

Boston, MA 02108

Telephone: (617) 720-2880

Facsimile: (617) 720-3554

Counsel for Defendants, Baxter Healthcare
Corporation and Baxter International Inc.

/s/ Alison W. Simon

Alison W. Simon

P.O. Box 430457

Miami, FL 33243

Counsel for Plaintiff, Ven-A-Care of the Florida
Keys

CERTIFICATE OF SERVICE

I hereby certify that I, Ruchi Jain, an attorney, caused a true and correct copy of the foregoing **THE PARTIES' JOINT MOTION FOR ENTRY OF A SCHEDULING ORDER** to be delivered to all counsel of record by electronic service via LexisNexis File & Serve, on January 3, 2011, for posting and notification to all parties.

/s/ Ruchi Jain
Ruchi Jain
DICKSTEIN SHAPIRO LLP
1825 Eye Street NW
Washington, DC 20006
Telephone: (202) 420-2200

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

IN RE: PHARMACEUTICAL INDUSTRY
AVERAGE WHOLESAL PRICE
LITIGATION

) MDL No. 1456
) Master File No. 1:01-CV-12257-PBS
) Sub Docket No. 1:10-CV-11186-PBS
)

THIS DOCUMENT RELATES TO:
United States ex rel. Ven-A-Care of the Florida
Keys
v.
Baxter Healthcare Corporation and Baxter
International Inc.

) Judge Patti B. Saris
)
)
)
)
)

[PROPOSED] SCHEDULING ORDER

January __, 2011

Saris, U.S.D.J.

WHEREAS, Relator Ven-A-Care of the Florida Keys ("Relator") filed its original complaint on June 23, 1995, and an amended complaint on May 14, 2010 in the U.S. District Court for the Southern District of Florida;

WHEREAS, the amended Complaint was unsealed on May 28, 2010 and assigned Civil Action No. 1:10-cv-21745-ASG;

WHEREAS, the matter was transferred to the District of Massachusetts by the Judicial Panel for Multidistrict Litigation on July 15, 2010 and assigned Case No. 10-cv-11186-PBS;

WHEREAS, that case was consolidated with Case No. 01-cv-12257-PBS (MDL No. 1456) on July 16, 2010;

WHEREAS, counsel for the Relator and counsel for Defendants have begun to discuss the possibility of a resolution of this matter without the need for further litigation;

WHEREAS, on October 15, 2010 the parties filed and on October 28, 2010 this Court approved a proposed scheduling order whereby the parties were to engage in formal mediation

prior to December 31, 2010 in an attempt to resolve this matter and, if not successful, were to file by no later than January 17, 2011, a joint proposed schedule to the Court for motion to dismiss briefing.

WHEREAS, Whereas, the parties have been working diligently to resolve this matter, but need additional time to continue settlement discussions because defense counsel needed substantial time to respond to relator's demand and relator's counsel has been working with the U.S. Department of Justice to finalize other AWP settlements.

NOW THEREFORE, it is ORDERED, as follows:

1. Relator and Defendants shall continue to engage in informal mediation prior to June 30, 2011 in an attempt to resolve this matter;
2. All deadlines shall be stayed during the pendency of this mediation period;
3. Should mediation not be successful, the parties will, by no later than July 15, 2011, jointly propose a schedule to the court for motion to dismiss briefing.

So ordered.

Judge Patti B. Saris